

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY



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MEMORANDUM

TO: Executive Committee of the Legislative Council
Committee on Legal Services

FROM: Dan Cartin

DATE: May 30, 2017

SUBJECT: Selection and appointment of Director of the Office of Legislative Legal Services

As the current Director of the Office of Legislative Legal Services (OLLS), I have announced my resignation as Director, effective July 28, 2017. Accordingly, the Committee on Legal Services and the Executive Committee will need to identify and appoint someone to fill the position of director.

The Committee on Legal Services (COLS), as the oversight committee for the OLLS, is directed by statute to provide recommendations to the Executive Committee regarding the appointment of the director of the OLLS.¹ After receiving the recommendations, the Executive Committee has a statutory duty to appoint the director of the OLLS.²

This memorandum discusses a strategy for recruiting and selecting a new director, the job description for the position, and compliance with the Open Meetings

¹ Section 2-3-503 (1), C.R.S. (See Addendum A for text of the statute.)

² Section 2-3-303 (3) (d), C.R.S. (See Addendum A for text of the statute.)

Law. It also contains a proposed schedule that could be used to assure that a new OLLS director is in place by August 1, 2017. Starting the selection process as soon as possible serves the interests of the General Assembly. Having a new director in place by August 1 will help to ensure a smooth transition as the OLLS prepares for the 2018 regular legislative session.

The Chair and Vice-chair of the COLS may wish to consult with the Executive Committee to develop a strategy for identifying potential candidates for the director position and for conducting any interviews.

Some issues to consider are:

- **The scope of the recruitment efforts.** Does the COLS want to focus on selecting from among candidates who are current employees of the OLLS or should the Committee conduct a wider search?

Recruitment efforts used to solicit candidates for staff agency director positions have varied over the years. The COLS limited its recruitment efforts to OLLS staff member applicants when making its selection in 2010. It is my strong recommendation that the new director be selected from within the OLLS. The services expected from the director of the OLLS require a thorough knowledge of Colorado law generally and more particularly of the statutes, rules, and common practices relating to the Colorado General Assembly. Those services can best be provided by a person who has been a long-term employee of the Office. This also has the salutary effect of encouraging current staff to continue their service in the OLLS.

- **Necessary resources.** What resources, if any, would be available to assist the COLS?

Depending on the breadth of the search, it may be necessary to determine the availability of money to be used for the candidate search. The Committee may need to expend money to publicize the job announcement (e.g., advertisements in local newspapers, NCSL website, legal publications, *Governing* magazine, etc.).³ If the Committee chooses

³ Public announcement of the vacancy is not required nor has it always been made in the past.

to conduct a nation-wide search, it may be necessary to pay the expenses incurred by applicants traveling to Denver for an interview or for related meetings.

During the last selection process, Deborah Haskins was available to assist the COLS in all phases of the process. Debbie has agreed to serve in that capacity again.

- **Timing and scheduling.** How much time is necessary for the COLS to solicit candidates and conduct interviews and for the Executive Committee to review the recommendations offered by the COLS?

To assist in developing a schedule for recommending and appointing a new OLLS director, a sample timeline is included in Addendum B. The timeline was created to illustrate several issues that could occur as part of the appointment process and provide a timeline in which those issues could be addressed. The timeline could be condensed to reduce the overall selection process or be extended to allow additional time to select a new director.

The current job description for the Director of the Office of Legislative Legal Services is included in Addendum C.

Some of the meetings at which the OLLS director search is discussed should be held as open meetings. As an example, meetings of a general nature, such as a meeting at which a recruitment strategy or general plan is developed and discussed, should be open to the public. It has been the opinion of the OLLS, however, that if personal interviews are conducted with applicants for the director position, those interviews are not subject to section 24-6-402 (3)(b)(I), C.R.S, of the Open Meetings Law and may be held in executive session if the candidate requests that the meeting be held in the executive session.

Addendum A

2-3-303. Functions. (3) (d) The executive committee shall appoint legislative service agency directors, other than the state auditor, after receiving recommendations thereon from the respective committees.

2-3-503. Director - staff - revisor. (1) The committee shall interview persons applying for the position of staff director as to qualifications and ability and shall make recommendations thereon to the executive committee, which shall appoint the director as provided in section 2-3-303 (3). The director of the office of legislative legal services shall be an attorney-at-law. The director shall be responsible to the committee for the provision of staff assistance in the performance of the committee's duties and functions. The director, with the approval of the committee, may appoint such attorneys-at-law and technical and clerical personnel as may be necessary for the efficient operation of the office. The director and all employees of the office shall be appointed without regard to affiliation and solely on the basis of their ability to perform their duties. They shall be employees of the general assembly and shall not be subject to the state personnel system laws. The director shall be paid a salary determined by the executive committee in accordance with section 2-3-303 (3).

(The term "Committee" as used in the statute excerpted immediately above means the Committee on Legal Services.)

Addendum B

Possible Timeline for Selection of OLLS Director

June 2017:

- COLS meets to plan selection process and review job description and criteria for OLLS director
- COLS solicits applications for OLLS director from current staff

If a wider search is used:

- OLLS updates the website to include posting for OLLS director position. (NCSL job announcement website links to OLLS website.)
- OLLS places any print advertisements in newspapers or other legal or legislative publications such as *Governing* magazine

July 2017:

- July 1: Deadline for applications
(Note: If a wider search is used, this deadline may need to be extended and some of the later deadlines compressed.)
- Week of July 10: COLS meets to review applications and interview candidates
- Week of July 10: COLS makes recommendations to Executive Committee
- July 18: Executive Committee reviews recommendations and selects director
(Note: If more than one candidate is recommended to the Executive Committee, the Executive Committee may wish to conduct its own interviews.)

August 2017:

- August 1: New OLLS director starts

Addendum C

OFFICE OF LEGISLATIVE LEGAL SERVICES DIRECTOR

The Director of the Office of Legislative Legal Services is appointed by the Executive Committee of the Legislative Council upon recommendation of the Committee on Legal Services in accordance with sections 2-3-303 and 2-3-503, C.R.S. The Director must be an attorney-at law and be appointed without regard to political affiliation and solely on the basis of his or her ability to perform the duties of the position.

The Director, as well as all employees of the Office, is an employee of the General Assembly and is not subject to state personnel system laws; however, the Director receives benefits available to other state employees as described in the Office Employee Handbook. Depending on the workload of the Office, the Director may be asked to put in more than an eight-hour work day or to work on a holiday or on a weekend.

When a person is appointed Director, his or her salary is determined by the Executive Committee of the Legislative Council. The Director reports to the Committee on Legal Services and is subject to an annual performance evaluation by the Executive Committee of the Legislative Council.

The Director, by statute, must perform the following duties:

- Provide staff assistance to the Committee on Legal Services in the performance of the Committee's duties and functions (Section 2-3-503, C.R.S.).
- Appoint attorneys-at-law and other technical and clerical personnel as may be necessary for the efficient operation of the Office (Section 2-3-503 (1), C.R.S.).
- Serve, ex officio, as the Revisor of Statutes unless the Director appoints an employee of the Office to be the Revisor (For the statutory duties of the Revisor, see the description for "Revisor of Statutes") (Section 2-3-503 (2), C.R.S.).
- Serve, ex officio, as the secretary of the Colorado Commission on Uniform State Laws unless the Director appoints an employee of the Office to act as secretary (Section 2-3-603, C.R.S.).

- Review and comment on initiative petitions (Section 1-40-105, C.R.S.) and participate on the ballot title board (Section 1-40-106, C.R.S.) unless the Director designates one or more employees to perform such functions.

The Director is chief executive officer for the Office and is responsible for managing the employees of the Office including setting the vision for the Office and being responsible for hiring and training employees, determining their compensation, and evaluating their performance. The Director must ensure that the Office performs its bill drafting and legislative legal services duties as outlined in section 2-3-504, C.R.S., its duties relating to legislative publications, review of administrative rules, and other duties assigned by the Committee on Legal Services or the leadership of either house of the General Assembly.

The Director acts as chief attorney for the General Assembly by performing general legal counsel and legal research functions; providing general legal advice and assistance to the legislative leadership, the Committee on Legal Services, legislators, and other legislative service agencies; and coordinating litigation related to legislative functions with attorneys retained to represent the General Assembly and its members.

The Director assists the Speaker of the House of Representatives, the President of the Senate, and the Executive Committee of the Legislative Council with legislative management issues.

The Director is a member of the Legislative Management Team along with the Secretary of the Senate, the Chief Clerk of the House of Representatives, the directors of the Legislative Council and the Joint Budget Committee staff, and the State Auditor.

In accordance with Rule 38 of the Joint Rules of the Senate and House of Representatives, the Director is also the contact person for an employee of the Office with a workplace harassment complaint unless the Director designates other employees of the Office to be contact persons.

In order to satisfactorily perform the functions of the Director, he or she must be able to:

- Perform functions by applying analytical skills, exercising problem-solving skills, and exercising good judgment.
- See, hear, speak, and move around the building in order to communicate with legislators, other Office staff, and other legislative agency staff.

- Clearly communicate information (sometimes of a complex nature) in written and spoken English.
- Deal with legislators, other Office staff, other legislative agency staff, lobbyists, the press, and members of the public in a professional manner.
- Work under stress and within time demands and deadlines.
- Work under instructions from legislators and legislative leadership
- Give understandable instructions to other Office staff.
- Operate a personal computer.